

Claims 1-15 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention.

The Examiner states that Claim 1 is unclear because as written Claim 1 does not properly convey whether or not the system itself is able to complete all of the steps a, b, and c or whether the claim reads on systems capable of doing only a or b or c or any combination of the same.

Applicants have amended Claim 1 to remove the ambiguity stated by the Examiner regarding steps a, b and c. Also, Applicants believe that they have properly amended Claim 1 to remove the lack of antecedent basis in the terms noted above.

Applicants therefore request reconsideration and allowance of Claims 1-15 over the Examiner's 35 U.S.C. § 112, second paragraph, rejection.

In claims 7 and 8 the Examiner states that the term "the brewed/water dilution" lacks the proper antecedent basis.

Applicants have canceled Claims 7 and 8 without prejudice. Therefore, the Examiner's 35 U.S.C. § 112, second paragraph, rejection is obviated.

35 U.S.C. § 102 Rejection

Claims 1 and 4-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Stover (U.S. Patent No. 4,579,048).

The Examiner states that Stover '048 discloses a system for preparing a customized brewed coffee beverage comprising delaying dilution of an extract (e.g., coffee, tea, etc.) for a time--i.e., 8 minutes. The Examiner further states that although Stover '048 discusses his dilution with regard to a tea beverage, Stover's apparatus has the capacity to fulfill the ratio of coffee extract/diluents required in Claims 7 and 8.

According to MPEP § 2131 a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. The elements must be arranged as required by the claim.

Applicants have amended Claim 1 to more clearly claim what it is that Applicants consider their invention. In particular, Applicants have added to the claim the modifier "individually" to further describe Applicants' customized coffee beverage. Support for the

modifier “individually” can be found in the specification at page 4, lines 22-24. No new matter has been added.

The importance of the modifier “individually” for Applicants’ invention is several. First, it speaks to a consumer’s ability to customize her preferred variety of beverage from a virtually endless selection of possibilities.¹ Furthermore, Applicants’ invention, by way of its personal customization, enables a customer to create a customized coffee beverage just prior to its consumption--such customization occurring totally within the system itself.²

Stover ‘048 does not teach or claim Applicants’ system-contained customization. Instead, Stover ‘048 merely teaches automatic dilution means that lack a customer’s input.³ Furthermore, Stover ‘048 steers away from customization by providing an electrical circuit that automatically controls the flow of brewing and dilution in the apparatus, once again, without a customer’s selection of a desired strength, flavor, body, etc.--i.e., without a customer’s personal customization of the brewed beverage.⁴ Clearly, Applicants’ individualized customization is a missing element in Stover ‘048.

The Examiner further states that Stover ‘048 discloses a system for preparing a *customized brewed coffee beverage*. [Emphasis added.] Applicants respectfully disagree with the Examiner’s contentions. First, nothing in Stover ‘048, as noted previously, teaches customization. Customization, as defined and taught by Applicants, is a customer’s ability to create a cup of coffee according to that user’s taste preferences within the brewer itself.⁵ Also, Stover ‘048 provides no teaching or example for brewing coffee, but merely tea. Persons of skill in the art recognize and appreciate the differences and nuances in brew technology between tea and coffee--further, said persons understand that suitable technology to brew a “good” cup of tea is not necessarily suitable to brew a “good” cup of coffee. Thus, it is Applicants’ contention that although Stover ‘048 mentions the brew of coffee, Stover ‘048 has not in fact taught one of skill in the art how to actually brew coffee in his invention, but rather how to brew tea. Without a specific teaching from Stover ‘048 regarding the different and varying brew methods for coffee, Stover ‘048 cannot be properly said to have taught and/or claimed Applicants’ invention for the brewing of coffee.

¹ Applicants’ Specification at page 4, lines 16-19.

² Id. at page 4, lines 25-29.

³ U.S. Patent No. 4,579,048 (Stover): col. 3, lines 26-28.

⁴ Id. at col. 5, lines 57-60.

⁵ Applicants’ Specification at page 1, lines 12-15.

Applicants therefore contend that without a teaching of Applicants' individualized customization or any teaching regarding a method of coffee brewing (and not tea brewing), Stover '048 fails to anticipate Applicants' invention. Therefore, Applicants respectfully request reconsideration and allowance of Claims 1 and 4-15 over the Examiner's 35 U.S.C. § 102(b) rejection.

35 U.S.C. § 103 Rejection

Claims 2 and 3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stover '048 as discussed by the Examiner supra.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all of the claim limitations. (MPEP § 2142).

As discussed previously, Stover '048 does not teach or claim Applicants' customization. Instead, Stover '048 merely teaches automatic dilution means that lack a customer's input.⁶ Furthermore, Applicants contend that Stover '048 teaches away from customization by providing an electrical circuit that automatically controls the flow of brewing and dilution in the apparatus, once again, without a customer's selection of a desired strength, flavor, body, etc.--i.e., without a customer's personal customization of the brewed beverage.⁷

Without the important element of individualized customization, Stover '048 cannot be properly said to encompass the subject matter of Applicants' Claim 1, let alone Claims 2 and 3, in an obviousness rejection. Therefore, Applicants respectfully request reconsideration and allowance of Claims 2 and 3, which depend upon Claim 1, over the Examiner's 35 U.S.C. § 103(a) rejection.

SUMMARY

All of the rejections in the Office Action have been discussed as have the distinctions between the cited references and the claimed invention.

In light of the discussions contained herein, Applicants respectfully request reconsideration of the rejections and their withdrawal, and all of the claims allowed.

⁶ U.S. Patent No. 4,579,048 (Stover): col. 3, lines 26-28.

⁷ Id. at col. 5, lines 57-60.

Issuance of a Notice of Allowance at an early date is earnestly solicited.

Respectfully submitted,

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MARKED COPY OF AMENDED CLAIMS

1. (Amended) A system for making a individually customized brewed coffee beverage product from an extract comprising at least one [or more] of the following steps[, in any order]:
 - a) delaying [the] dilution of the coffee extract for a minimum period of about 5 minutes after [the] onset of brewing of the extract;
 - b) delaying [the] mixing of the coffee extract for a minimum period of about 5 minutes after [the] onset of brewing of the extract; and
 - c) delaying [the] filtering of the coffee extract for a minimum period of about 5 minutes after [the] onset of brewing of the extract.